

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
2002 Biennial Review of Regulations)	WT Docket No. 02-310
Within the Purview of the Wireless)	
Telecommunications Bureau)	

COMMENTS OF NENA, APCO AND NASNA

The National Emergency Number Association (“NENA”), the Association of Public-Safety Communications Officials-International, Inc. (“APCO”) and the National Association of State Nine One One Administrators (“NASNA”) hereby respond to the Commission’s invitation to comment on the referenced regulations.¹ Our focus in these initial comments is Part 20, which contains definitions (Section 20.3) and operational requirements (Section 20.18) for wireless enhanced 9-1-1 (“E9-1-1”) service.

Certain proposed amendments to, or clarifications of, the Part 20 rules are under consideration in CC Docket No. 94-102, and we expect decisions long before the 2002 Biennial Review is concluded. These include but are not limited to:

- Reconsideration of the *City of Richardson* order, FCC 01-293, released October 17, 2001, including a Verizon Wireless proposal to amend Section 20.18(j);²
- Reconsideration of the order on identification of non-service-initialized (“NSI”) phones, FCC 02-120, released April 29, 2002, effectiveness stayed, DA 02-2423, released September 30, 2002; and

¹ Public Notice, FCC 02-264, September 26, 2002.

² Letter of John T. Scott, III, to Secretary Dortch, August 19, 2002.

- Request for clarification that Section 20.18(b), requiring the forwarding to a designated PSAP, does not extend to repeated abusive or harassing 9-1-1 calls.³

CTIA Petition

On July 25, 2002, the Cellular Telecommunications & Internet Association (“CTIA”) filed a separate petition for rulemaking covering some of the same regulations at issue here. The Commission has chosen to treat the CTIA petition as comments in this proceeding. (Public Notice, note 1) CTIA first suggests:

- ❑ That “the Commission’s cost recovery rules now provide for a negotiation process between carriers and PSAPs that is not consistent with Section 20.18.
- ❑ That the six-month implementation period at Section 20.18(d),(f) and (g) should be changed “to permit carriers and PSAPs to negotiate a mutually-agreed upon implementation period.”
- ❑ That the Commission should “affirm that the six-month implementation period is tolled while a PSAP assembles supporting documentation or during a ‘readiness dispute’.”⁴

NENA, APCO and NASNA agree with CTIA’s allowance for negotiations, but this is not inconsistent with the existence of a fixed rule to backstop the discussions. In the event the parties are unable to agree, a rule should be in place to define their respective obligations.

We cannot agree to the tolling suggestion as written. In the Joint Comments of APCO, NENA and NASNA on the Sprint PCS Petition for Reconsideration of the *Richardson* order, dated January 18, 2002, we proposed instead at page 4:

We suggest as an alternative to Sprint’s proposal that the six month period continue running upon a carrier request for documentation, unless the PSAP fails to provide the

³ Letter of James R. Hobson to Secretary Dortch, May 31, 2002.

⁴ CTIA Petition, 19.

requested documents within a reasonable time frame (e.g., 15 days), after which the six month period will toll.

We agree with CTIA that there are serious “technical obstacles to providing the enhanced features of E911 to non-subscribed handsets.” (Petition, 19) However, we are not persuaded that clarifying the rules to explain the difficulty is necessary or useful. Section 20.18(d)(2) relieves carriers of the obligation to pass a callback number from an NSI phone. But future technological developments may permit callback to these handsets, and the rule should not be seen to freeze the status quo.

The broader policy question is whether access to 9-1-1 should continue to be viewed as an “entitlement” open equally to those who pay for wireless service and those who do not. In the case of phones donated for charitable purposes, many carriers are providing these units with callback numbers as if subscribed. This is preferable to the proliferation of NSI handsets that cannot be called back. As for phones whose subscriptions simply have lapsed, it is time to think again about the social imperatives versus the technical and economic consequences arising from “free rider” use of these abandoned devices. We intend to take the matter up anew in CC Docket 94-102.⁵

CTIA recommends modifying subsections (f) through (i) of Section 20.18 “to clarify that any provider of commercial mobile phone services subject to those sections may choose to comply with the requirements of any FCC order granting a waiver of these sections.” This is not a good idea. Section 1.3 of the Rules provides generally for waiver of any rule upon the showing of good cause. This obviates the need to recite the availability of waiver in each rule section.

⁵ At first, the wireless E9-1-1 rules applied only to “service-initialized” (subscribed) phones, unless a PSAP requested that calls from NSI phones also be forwarded. This “PSAP choice” option proved infeasible at the time and the rules were changed on reconsideration to require the passing of all calls. Memorandum Opinion and Order, 12 FCC Rcd 22665, 22682 (1997).

CTIA advances no reason why waiver should be mentioned more prominently in Section 20.18 than elsewhere in Chapter 47 of the Code of Federal Regulations.

Congestion Control

One of the reasons NENA has asked for clarification (note 3, *supra*) of the “forward all calls” principle in Section 20.18(b) -- as it applies to repeated harassing or abusive calls from mobile phones to PSAPs -- is the concern expressed by wireless carriers that they have no recourse. The principle, they believe, obliges them to transmit even these malicious communications.

A similar problem for wireless calls to PSAPs arises from good rather than evil intentions. When tens or hundreds of mobile phone-equipped “Good Samaritans” dial 9-1-1 to report the same highway accident, fire or other calamity, the volume of communications can overload the system and even prevent non-repetitive calls about separate emergencies from getting through to the PSAP. For this reason, both the wireless carriers and the 9-1-1 authorities would like to develop discriminating methods of “choking” the redundant calls so as to leave more channels available for new requests for help.

The closest the Commission has come to this problem so far is in declining to fix a “grade of service” for the wireless portions of a 9-1-1 call.⁶ In its adoption of the original wireless E9-1-1 rules, the Commission concluded that “the interested parties should develop standards by mutual agreement or by submission to standard-setting bodies.”⁷ Although a

⁶ The wire segments of the call’s path, typically from a selective routing switch across dedicated trunks to a PSAP, often are subject to grade of service requirements set by state public utility commissions. A common requirement is called P.01 service, which means that only one call out of 100 during a special “peak busy hour” fails to go through.

⁷ Report and Order, 11 FCC Rcd 18676, 18738 (1996).

promise to “track the industry’s progress” in arriving at a call-blockage consensus was backed by periodic reporting requirements, the reports have ceased and the requirements are not enforced.

In its work with standards bodies on the subject, NENA has encountered confusion over how any agreement on blocking or choking of voluminous redundant calls to 9-1-1 would fit under the “forward all calls” principle. Accordingly, we ask the Commission to declare or clarify that Section 20.18(b) was not intended to preclude work toward a consensual standard on the treatment of 9-1-1 calls whose volume and redundancy would allow them to be blocked without harmful consequences.⁸

Just because a 9-1-1 call is accepted by the carrier, doesn't mean that it will, or should, complete to a PSAP. Standard policies and procedures should be applied to the interconnection of wireless networks with 9-1-1 networks in order to protect the 9-1-1 network and the PSAPs. Congestion control principles should apply that establish minimum and maximum levels of service. Carriers have often resisted this idea, asserting that the FCC’s forward-all-calls principle does not allow them to block a 9-1-1 call due to network congestion. They have no such reservations about the call being blocked at the PSAP, as long as it is not blocked in their networks.

The harsh reality is this: It is not unusual for a single fender-bender on a highway to generate 50 wireless 9-1-1 calls where there would have been one or two wireline calls. We appreciate the contributions mobile callers make to public safety. But PSAPs are neither equipped nor staffed to answer that volume of calls, nor should they be, especially when most of

⁸ Phase II location by x-y coordinates within 50 to 100 meter accuracy (in 67% of calls) enhances the ability to discriminate between communications that are likely part of a mass report of a single emergency incident and singular calls involving separate emergencies.

it is redundant. The Commission's original expectation that call-blocking issues could and would be worked out by industry forums or standards bodies is failing because, in our view, carriers are misinterpreting the call-forwarding obligation of Section 20.18(b). An FCC clarification would hasten the resolution of a significant problem.

Respectfully submitted,

NENA, APCO and NASNA

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October 18, 2002